

APPEAL NO. 041125
FILED JUNE 29, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 28, 2004. The hearing officer decided that the appellant (claimant) reached maximum medical improvement (MMI) on September 30, 2002, with a five percent impairment rating (IR), as certified by the designated doctor appointed by the Texas Workers' Compensation Commission (Commission). In Texas Workers' Compensation Commission Appeal No. 040383, decided April 9, 2004, we reversed and remanded the hearing officer's decision for reconstruction of the record. On remand, the hearing officer reconstructed the record and, again, determined that the claimant reached MMI on September 30, 2002, with a five percent IR. The claimant appeals, asserting that he has not reached MMI and that the IR cannot be determined. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant reached MMI on September 30, 2002, with a five percent IR. Sections 408.122(c) and 408.125(c) provide that the report of the Commission-selected designated doctor is entitled to presumptive weight unless it is contrary to the great weight of the other medical evidence. Whether the great weight of the other medical evidence is contrary to the opinion of the designated doctor is a factual determination. Texas Workers' Compensation Commission Appeal No. 93459, decided July 15, 1993. In view of the evidence presented, we cannot conclude that the hearing officer's MMI/IR determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMCOMP ASSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge